

Appl. No. 09/831,004
Atty. Docket No. CM1930
Reply Dated April 12, 2004
Reply to Office Action of December 29, 2003
Customer No. 27752

REMARKS/ARGUMENTS

Claim Status

Claims 1-15 are pending in the present application and stand rejected under 35 USC § 103

Claim Amendments

Claim 1 has been amended to more clearly describe the relationship between the gas-proof means and the other container elements. Support can be found in figs. 1 and 5.

REJECTIONS

Rejection under 35 U.S.C. 103

Ishikawa in View of Urano

Claims 1-5, 7-13 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al. (5,699,912) in view of Urano et al. (4,208,118). While admitting that the Ishikawa reference fails to disclose a gasket seal between the cover and a movable lid, the Office Action asserts:

Ishikawa et al. disclose, in figs. 11 and 14, a container for wetted wipes comprising a container body 11, a stationary cover 21 having a dispensing opening 24, a movable lid 23, a spring element 50, a locking mechanism comprising a protrusions 32, 52a of the stationary cover and the movable lid, and a push-button 52. The spring element is made of rubber material (see col. 5, lines 37-40).

The Office Action goes on to state that the Urano reference, in Figs 7 and 8 discloses a gasket seal fitted into a groove on the cover. The Office Action closes by asserting that it would have been obvious to modify Ishikawa's container with a gasket seal in view of the teaching of Urano in order to provide moisture and dust proof sealing to the container.

In response the Applicants respectfully traverse the rejection and point out that the Office Action fails to establish a *prima facie* case of obviousness for at least the following reasons:

- There is no motivation to combine the references as suggested by the Office Action (MPEP 2143.01) for at least two reasons.
 - The requirements a closure for a container for wet wipes, where one is concerned with minimizing evaporation of the liquid components that keep the wipes contained

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therein moist, are substantially different than for a camera exposed to adverse environmental conditions including rain, dustiness or splashing water (Urano col. 1, lines 10-20). Therefore, one of ordinary skill would not be led to seek the sophisticated sealing mechanism taught by Urano.

- The Urano reference is not analogous art with respect to a container for wet wipes because it would not have logically commended itself to the attention of one of ordinary skill who is concerned with solving a problem in the field of containers for wet wipes (MPEP 2141.01). As noted above, the requirements for sealing a high priced camera against harsh environmental conditions are significantly more stringent than for a closure for a wet wipe. The Applicants note that the Office Action is forced to go far from the field of containers for disposable consumer products to find a reference that even comes close to the claimed gas proof means. It is important to note that there is no overlap whatsoever in the class of the initial search with respect to the present application (Class 220-Receptacles) or the class assigned to the Ishikawa reference (Class 206-Special Receptacle or Package) and the class of the Urano reference (Class 396-Photography (Former Class: 354). It is also interesting to note that no art from class 220, subclass 526 (Closure has means to engage compartment forming elements (e.g., forms seal between closure and compartment) has been cited. In other words, the Urano reference is not analogous art.

Net, given the substantial difference in the performance requirements for a closure between a camera and a container for wet wipes and the failure of the Office Actions to cite references from more closely related art fields, the Applicants submit that one of ordinary skill would not be led to combine the references and that combination of Urano with Ishikawa is improper.

- Even if the Urano reference is considered analogous art, the proposed modification to the Ishikawa by Urano is improper because the Ishikawa reference teaches away from the need for a sealing gasket as described by Urano (MPEP § 2143.02) so the combination is still improper. The Applicants respectfully direct the Examiner to Figs. 3B and 19 of Ishikawa. In both cases, the Ishikawa reference clearly teaches that the annular walls 35 or 85 of the movable lid member 23 are in a parallel engagement relationship with the wall of the stationary lid member 21. See also col. 4, lines 60-65 and col. 8, lines 25-35

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for further discussion of this relationship. In particular, the Applicants note that both portions of the Ishikawa reference that discuss the relationship between the movable lid member and the stationary lid member when the members are in a closed configuration describe that they are "tightly engaged." A tightly engaged seal unquestionably teaches away from the need for a seal that resists rain, dustiness or splashing water as described in Urano. Hence, the combination is improper.

Given that the Applicants have shown that the Office Action fails to establish a *prima facie* case of obviousness with respect to Claim 1 and given further that Claims 2-5, 7-13 and 15 depend from Claim 1 having all the limitations of the base claim, the Applicants respectfully request reconsideration of the rejection, its withdrawal and that Claims 1-5, 7-13 and 15 be allowed.

Ishikawa in View of Urano and Taguchi

Claim 6 stands rejected under 35 USC § 103 as being unpatentable over Ishikawa, et al. in view of Urano, et al. and Taguchi, et al. (US 4,513,877). The Office Action admits that the combination of Ishikawa and Urano fails to teach or suggest a spring element where the spring is a coil spring. In an attempt to overcome this deficiency, the Office Action adds Taguchi and states: "Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the spring element in Ishikawa in view of Urano et al. container being a metal winding coil, as taught by Taguchi et al., in order to provide a desired spring element for the biasing hinge of container cover."

In response, the Applicants respectfully direct the Examiner to the arguments with respect to the rejection over the combination of Ishikawa and Urano and note that Claim 6 depends from Claim 1 having all the limitations of the base claim. The addition of the spring from Taguchi fails to overcome the underlying defect that the combination of Ishikawa and Urano fails to teach or suggest a container as described in Claim 1. Given that failure and the dependency of Claim 6 from Claim 1, the Applicants submit that the combination of Ishikawa, Urano and Taguchi fails to teach or suggest the container described by Claim 6 and respectfully request reconsideration of the rejection thereof, its withdrawal and that the claim be allowed.

Ishikawa in View of Urano and Boedecker or Kanfer

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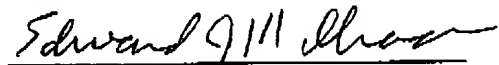
Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa in view of Urano et al. and further in view of Boedecker (3,994,441) or Kanfer et al. (5,573,132). The Office Action admits that Ishikawa in view of Urano et al. does not disclose the bottom of the container comprising a refill opening being closed by a removable cover. It goes on to state that "Boedecker or Kanfer et al. teach a bottom of a container comprising a refill opening being closed by a removable cover." And concludes that "...it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Ishikawa in view of Urano et al. having the bottom of the container comprising a refill opening being closed by a removable cover, as taught by Boedecker or Kanfer et al., in order to facilitate the refill of the container at the container bottom."

Again, the Applicants respectfully direct the Examiner to the arguments with respect to Claim 1 and note that Claim 14 also depends therefrom. With respect to Claim 14, the addition of either of the Boedecker or the Kanfer references to the combination of Ishikawa and Urano still fails to overcome the deficiency that the combination of Ishikawa and Urano fails to make the invention described by Claim 1 obvious because the base combination is improper. Therefore the Applicants respectfully request that the rejection of Claim 14 over the combination of Ishikawa and Urano in view of either Boedecker or Kanfer be withdrawn and that Claim 14 be allowed.

CONCLUSION

In light of the amendments and remarks presented herein, Applicants respectfully submit that Claims 1-15 are allowable over the prior art of record or any combination thereof. In the event that issue remains prior to allowance of the noted claims, then the Examiner is invited to call Applicants' undersigned agent to discuss any remaining issues.

Respectfully submitted,



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